

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

DAVID BRIAN MORGAN, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. CIV-19-022-D
)	
UNITED STATES, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

This matter is before the Court for review of the Report and Recommendation issued by United States Magistrate Judge Suzanne Mitchell pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Judge Mitchell recommends a voluntary dismissal under Fed. R. Civ. P. 41(a)(2) based on the filing of a “Motion to Withdraw Pleadings for Civil Rights Violation Class Action Okla. 9” [Doc. No. 9]. Although submitted by Plaintiff David Morgan, Judge Mitchell liberally construes the filing as a joint request by all nine plaintiffs (who refer to themselves collectively as the “Oklahoma Nine”) to voluntarily dismiss this action.

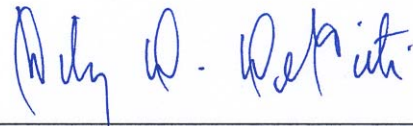
The case file shows no timely objection to the Report or request for an extension of time, even though Plaintiffs were expressly informed of their right to object, the procedure for doing so, and the consequences of failing to object. Instead, within the time period for an objection, the Court has received two filings: “Motion to File Withdrawal of Case” [Doc. No. 11], submitted by “Ernest Draper on behalf of Oklahoma Nine;” and “Motion to Address This Court” [Doc. No. 12], submitted by “Oklahoma Nine David Brian Morgan.” The first confirms Plaintiffs’ request for a voluntary dismissal. The second is intended

“to explain why we are doing this” (Doc. No. 12 at 1),¹ but it contains no objection to the recommended dismissal.

Therefore, the Court finds that Plaintiffs have waived further review of the issues addressed in the Report. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also United States v. 2121 E. 30th Street*, 73 F.3d 1057, 1060 (10th Cir. 1996). Further, for the reasons stated by Judge Mitchell, the Court finds that this action should be dismissed without prejudice to refiling.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 10] is ADOPTED. This action is DISMISSED without prejudice to a future filing. A separate judgment of dismissal shall be entered.

IT IS SO ORDERED this 13th day of February, 2019.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE

¹ The explanation was triggered by Judge Mitchell’s cautionary statement that repeated case filings and dismissals may result in a future dismissal with prejudice or other sanctions. *See* R&R at 3.